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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,508	03/29/2001	Dennis Sunga Fernandez	FERN-P001E	9844
22877	7590	10/05/2004	EXAMINER	
FERNANDEZ & ASSOCIATES LLP 1047 EL CAMINO REAL SUITE 201 MENLO PARK, CA 94025			VO, TUNG T	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/823,508

**Applicant(s)**

FERNANDEZ ET AL.

**Examiner**

Tung T. Vo

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 18, 19, 22-32, 34, 35 and 37-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 18, 19, 22-32, 34-35, and 37-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 07/22/04 has been entered.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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2. Claims 18, 19, 22-32, 34-35, and 37-49 are rejected under 35 U.S.C. 102(e) as being anticipated by Fan et al. (US 5,959,577).

Re claims 18 and 46-47, Fan discloses an Internet coupled network for electronically linking at least one fixed vendor processor (base station, 27 of fig. 1) to at least one mobile buyer processor (1 and 3 of fig. 1) comprising a storage (32 of fig. 2) and a processor (38 of fig. 2) for carrying out a method for transacting between vendor and buyer processors comprising the step of:

determining a first location of a mobile buyer processor coupled to the Internet (col. 3);  
receiving from the mobile buyer processor a first transaction message (18 of fig. 13);  
sending to the mobile buyer processor a second transaction message indicating a first fixed vendor processor proximately disposed to the first location (col. 5, lines 1-51);

wherein the second transaction message is caused to be sent adaptively by software that matches a mobile interest as maps, traffic situation in particular area, position of service stations and destination of interest, with a fixed vendor service or product as position of service stations by using past movement or location of the mobile buyer, thereby local transaction efficiently between the mobile buyer and a nearby vendor (32, 36, 38 of fig. 2, e.g. the processing unit (38) process a mobile interest from database storage (32) based upon the request by the user, wherein the processing unit is able to locate a nearby vendor for the user interest; see also col. 4, lines 42-55).

Fan further discloses the second transaction message indicating real-time inventory (update gas station, food, or hotel services) or product of interest to the mobile buyer available at the nearby vendor (27, 32 of fig. 2), the software providing by the vendor processor (38 of

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fig. 2) to a video surveillance of the mobile buyer (Under periodic update mode 53, at step 55, mobile unit 1 waits for the next scheduled position update. At the time of a scheduled update, i.e., at step 58, mobile unit 1 calls to establish network service connection 10 for accessing data network 27, and transmits to data processing station 18 an outbound data package. Upon receiving the outbound data package, data processing station 18 responds to the operator's query by searching database 32, updating a map retrieved from map storage 63, and transmitting the map to mobile unit 1 an inbound data package, see figs. 12 and 13). It is interpreted that the real time inventory of service of interest to the mobile buyer available at the nearby vendor is the inbound area that provides the services of gas station, food, or hotel are available to the mobile buyer.

Re claims 19, Fan further discloses the step of determining a second location of the mobile buyer processor coupled to the Internet;

receiving from the mobile buyer processor a second transaction message (cols. 3 and 4);  
sending to the mobile buyer processor a third transaction message indicating a second (col. 5) fixed vendor processor proximately disposed to the first location (col. 5, lines 1-51).

Re claim 24, Fan further discloses a vendor processor (38 of fig. 2) employs a software agent associated with mobile buyer processor to access a database (32 of fig. 2).

Re claim 25, Fan further discloses the transaction message is sent to mobile buyer processor according to portable identifier associated with the mobile buyer processor (1 of fig. 1).

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Re claim 26, Fan further discloses an object representation of the mobile buyer processor comprises an object name, an object identifier, an object group, an object query, an object condition, an object status, an object location, an object time, an object error, or an object image, video, or audio (map, col. 5, lines 40-52).

Re claim 28, Fan further discloses the mobile processor is monitored temporarily using an extrapolated or last-stored positional or visual signal (22 of fig. 1; col. 6, lines 6-40, e.g. web browser).

Re claim 29, Fan further discloses the mobile buyer processor is authenticated according to a voice pattern, a fingerprint pattern, a hand written signature, or a magnetic or smart card signal (col. 5, lines 53-67, e.g. telephone network used for voice pattern, wireless network use for every transmission included voice, video, text).

Re claims 30-32, 34-35, and 37-45, Fan discloses the transmission between the mobile unit (1 of fig. 1) and monitor (22 of fig. 1) over the Internet, which is in the form of an electronic mail message, as considered an electronic file, a research database (map). Since Fan uses the data network (27 of fig. 1) such as the Internet or telephone network or wireless network to communicate between the mobile (1 and 3 of fig. 1) and the monitor (22 of fig. 1), a user is able to receive a greeting card, news report includes stock report, artwork, person list, music, and live music transmission, electronic tool, and a commercial transaction (col. 6, e.g. web browser, electronic mail).

Re claims 22-23, and 27, Fan further teaches the first a mobile detector that comprises accelerator (vehicle 3 of fig. 1 has acceleration and the receiver (detector)) coupled to the mobile buyer processor when the mobile buyer processor is moveable in determined location and a

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pseudo-range, the activities of the mobile unit (1 of fig. 1) is observed within an observable range by the monitor (22 of fig. 1).

Re claims 48-49, Fan further discloses the processor receives a signal from a sensor coupled to a mobile vehicle (Gas-meter is sensing gas or battery at low or empty) to determine that vehicle fuel or power is low or empty, thereby modification the mobile buyer interest for matching appropriate vendor service or product (direction to the gas station, col. 5, lines 22-53), and a signal from a sensor coupled to a mobile buyer vehicle to determine that the vehicle has a flat tire or airbag deployment, thereby modification the mobile buyer interest for matching appropriate vendor service or product (col. 5 and col. 6, e.g. the monitor (22 of fig. 2) is monitoring all activities, including flat tire of the truck company).

### ***Response to Arguments***

3. Applicant's arguments filed 07/22/04 have been fully considered but they are not persuasive.

In response to Examiner rejection of claims 18, 46 and 47 per claims 18-19, 22-32, 34-35 and 37-49 per 35USC102e by Fan (US.PAT5959577), Applicants amend claims 18 and 46-47 to specify patentably among other " , things that .... the second transaction message indicating real-time inventory of service or product of interest to the mobile buyer available at the nearby vendor, the software providing access by the vendor processor to a video surveillance of the mobile buyer." Specification Support appears On pages 9 and 21, page 8 of the remark.

The examiner respect disagrees with the applicant. It is submitted that Fan does disclose the second transaction message (the request for second inbound area) indicating real-time

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inventory of service (the gas station, food, or hotel is available in the inbound area at real time) or product of interest to the mobile buyer available at the nearby vendor, the software providing access by the vendor processor to a video surveillance of the mobile buyer (fig. 2, elements 18, 32 and 38; see also figs. 12 and 13, the mobile user selects gas station (request the inbound map) the map with gas station are shown on the LCD at the real time, called real time inventory of service). In view of the discussion above, Fan anticipates the claimed features.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the previous Office Action.

### ***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung T. Vo whose telephone number is (703) 308-5874. The examiner can normally be reached on 6:30 AM - 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris. Kelley can be reached on (703) 305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



TUNG T. VO  
PATENT EXAMINER

T.Vo

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Primary Examiner  
Art Unit 2613